p 16

Previous references

1894
(Municipal)

File No. 194-94

Serial Nos. 75 & 76

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 75 & 76

Part B. for October 1900.

SUBJECT.

Refund of Rs 10.6.0 being the amount of tolls paid by contractors on their carts.

75. No 42 dt. 22-9-1900 from the President, Bellary City Municipality
Submits letter no $\frac{A}{1364}$ from the Chief Commissariat Officer claiming a refund of Rs. 10/-6/- paid for carts conveying Commissariat articles.

76. Dr. $\frac{5621-22}{L.F\ 231-96}$ of 23-10-00 to the same and the Govt sanctions the refund

as to whether the refusal of [illegible] may be sanctioned. Please see SI of the 27th Aug 96 regarding exemption from octroi of Govt Dues. Draft submitted for approval Dy 28/9/00

1898-99.

From

THE PRESIDENT,

Bangalore City Municipality.

To

THE SECRETARY TO THE

GOVERNMENT OF MYSORE,

General and Revenue Departments,

BANGALORE.

Subd to the Secy.
Dy
29/9/00

Dated

Despatched 22nd September 1900

Received

General No. 42 }
No. }

Enclosure No. File.

Submitting for orders letter from the Chief Commissariat Officer, Bangalore No. A/1364 dy 28th August 1900 together with its enclosures Claiming refund of Rs 10/6.

L.B. 13/9
2579/00

A. S. chn,
Encls called for Dy 26/9
27/9

Enclosures since received -
28/9
Draft submitted
29/9
Submitted for order

Office of the Municipal Commission

City, Bangalore. 22nd September 1900.

No 42
- File
From

THE PRESIDENT,
Municipal Commission,
BANGALORE CITY.

To

THE SECRETARY TO THE GOVERNMENT OF MYSORE,
General and Revenue Departments,
BANGALORE.

Sir,

I have the honor to forward a letter from the Chief Commissariat Officer, Bangalore No. A/1364 dated 28th August 1900 together with its enclosures Claiming refund of Rs. 10/6 paid by Contractor on Carts for conveying Commissariat Stores and to request the favor of orders on the subject.

I have the honor to be
Sir
Your Most obedt. Servant

Municipal Commissioner
for President

Encls to Gl no 75
Fort 1894

Bangalore District
Chief Commt Offices
Account Branch
Bangalore, 28th August 1900

No: A
1364

From,
The Chief Commissariat Officer
Bangalore Fort

To,
The President,
Municipal Commissioner
Bangalore City

Sir,

I have the honour to submit herewith a bill for the refund of the amount of tolls paid by Contractors for carts conveying Commissariat Stores since 1 January last, and to request that the amount may be remitted to me for credit to Government.

2 I also send a copy of the proceedings of the Madras Government Local and Municipal Department,

No. Dn/574 dy 23rd. April 1900 from which you will see that Contractors Carts conveying Govt. Stores are exempted from paying tolls.

3. I may state that the President of the Municipality, Civil and Military Station, Bangalore, has intimated his readiness to refund to this Department all tolls paid under similar circumstances on Government stores entering the Civil and Military Station limits, since the 1st January 1900.

I have &c.

(Sd) H. Rutherius Major
A. C.G.
Chief Commt. Officer, B. Distt.

With this correspondence. All this trouble would have been avoided if the Chief Commissariat Deptt. had on the very first levy of tolls intimated to this Department that the carts in question should be exempted from payment of toll.

(Sd) M. Ramachendra Row
Collr. &c

No. 574. Dr. 23 April 1900

Government of Madras.
Local and Municipal, Depts.

Read:- the following papers.

From, R. C. C. Carr, Esqr. I. C. S.
Ag: Collector of Bellary
to the Secretary to Govt.
Local & Munl Depts.
Dy 27th January 1900. Rf. on Do.

I have the honour to request the orders of Government on the question raised by the Executive Commissariat Officer, Bellary, in the correspondence herewith submitted. The question is whether contractors' carts carrying grass from the Government Rannahs to the Commissariat Office at Bellary are exempt from the payment of tolls under section 91 (3) of the District Municipalities Act.

2. The Government Rannahs are situated near Sulkampur, a village in the Hospet taluk, and the convey of grass from Rannahs to the

Commissariat Office in Bellary has been let out on Contract for the current year. Last year the grass was supplied by the forage agent, a paid servant of the Commissariat Department and the carts hired by him were allowed a free passage.

3. The Executive Commissariat Officer contends "that the grass Government grass grown on Government lands and brought into Bellary for the feeding of Govt. horses; that the conditions under which the grass is cut and removed by the Contractors are precisely similar to those formerly made by the Commissariat Agent, and that as forage agents' carts were exempted from the payment of tolls, the Contractors' carts are also entitled to a similar exemption." I do not think that this contention can hold good. The Municipal act,

as now amended, makes it clear that tolls are levied on vehicles or animals, and that these can only be exempted when "conveying troops, Military stores and baggage or property in the custody of Military Officers or servants." The carts in this case are Contractors' carts and the property is in the custody of the Contractors and not of any Military Officer or servant. The only question is whether or not the grass can be considered to be "Military stores" before it is delivered into the custody of the Military Officer. In my opinion it cannot be so considered. It appears from the records in this Office that in the year 1890, and apparently also in 1895, tolls were being paid by Contractors on their carts when bringing this grass.

4. The marginally noted orders of Government declaring Government

Gore X Order Iris. &c.
1755 M. dd 15 Oct 1891
— do. Iris No. 236 M.
dd 4 February 1892

carts and carts hired by Government to be exempt from the payment of tolls were framed under the old Municipal act, but the position appears to be unaltered. The amended section is framed in clearer language, but its effect is the same. If the Government does not accept the view that tolls should be levied on the Contractors' carts when carrying grass from the Paunnahs, I request orders as to whether the carts should also be exempted on their return journey to the grass farm.

Endorsement No: 295.
Referred to the Advocate General, for favour of opinion.

11th March 1900. (sd) H Drummond,
Secretary to Govt.

To, The Government Solicitor.

From, The Government Sol.
Madras. D/ 26th March/00

No: 215.

Subject:- Forwarding the following opinion of the Advocate General D/ 21 March 1900

Opinion.

Under the District Municipalities act, as amended by Act III of 1897, it makes no difference whether grass from Kannan hills is conveyed to the Commissariat by Contractors' carts or forage agents' carts, or even by carts belonging to Government. The exemption from payment of tolls, so far as the present reference is concerned, is only in respect of vehicles conveying Military Stores. I may also mention that section 113 of the Army Act (44 and 45 Victoria c. 58), which is also applicable to India, has a bearing upon the question under reference and that is not and cannot be affected

by the District Municipalities Act or the Local Boards Act, Section 113 of the Army Act provides, among other things, that all carriages belonging to Her Majesty or employed in her Military service, when conveying stores or returning from conveying the same, shall be exempted from payment of any duties or tolls in passing along or over any turnpike or other road or bridge, though such duty or toll may be otherwise demandable by virtue of any Act of Parliament already passed or hereafter to be passed or by virtue of any act, ordinance, order or direction of the Legislature or other authority in India. So far as exemption from payment of tolls when conveying stores is concerned, assuming that the grass under reference to be "Military Stores"

there is substantially no difference between the District Municipalities Act and the Army Act but the Army Act has a special bearing upon the question under reference in regard to liability to the payment of tolls in respect of the carts in question on their return journey to the Grass Farm after unloading the grass at the Commissariat. In my opinion the case turns entirely upon the meaning of the word "Stores" occurring in section 143 of the Army Act and in section 91, Clause (3) of the District Municipalities Act. If grass cut and carried from a Government Farm to the Commissariat as forage for the regimental horses can be regarded as Military stores; I am of opinion that no toll can be levied either under the District Municipalities Act,

the Local Boards Act, either when the carts convey the same to the Commissariat, or when the carts are on their return to the Army supply. The expression "Military Stores" is not a legal expression, and it is only with considerable diffidence that I can express an opinion as to the meaning of that expression in common parlance, especially as understood in Military Circles.

2. In the District Municipalities Act and the Local Boards Act the expression is vehicles conveying "Military Stores" and in the Army Act, the expression is "carriages employed in Her Majesty's Military service, when conveying stores." In my opinion the meaning is the same in both cases.

3. One of the meanings of the word "Stores", which is the meaning that is relevant to the question

under reference), as "supplies, as of provisions, arms, ammunition and the like", and the word "Supply" means "the food and the like which meets the daily necessities of an army or other large body of men; stores" (Vide Webster's Dictionary and Century Dictionary). I think that forage for regimental horses will fall under the head of "the like" in the meaning of "Stores", and under the head of "the like" which meets the daily necessities of an army in the meaning of the word "supply".

4. The circumstance that the grass which is conveyed by the vehicles in question is Government grass grown and cut on Government farm does not appear to me to make any difference. Military Stores conveyed by vehicles which are exempted from payment of tolls would generally become become the property of

Government before being conveyed to the Commissariat, and it can make no difference whether the cane became property of Government by purchase from the market or because they were the property of Government otherwise than purchased. Bearing in mind the policy of the Legislature in making the exemption in question, it does seem reasonable that vehicles while conveying either daily or other periodical supply of forage for delivery at the Commissariat for regimental purposes and on their return should be exempted from payment of tolls.

(Sd.) V. Krishnan Iyengar.
Offg Advocate General

Order.

Order No: 574 Dr.

Dy 23rd. April 1900

The Advocate General's opinion read above will be communicated to the Collector of Bellary.

2. It is observed that under Section 91 (1) of the District Municipalities Act, Rolls are leviable only when a cart enters, and not when it leaves the Municipality.

(True Extract)

(Sd) H. Freemantle
Secretary to Govt.

Office Copy
Compd
Copies.

Secretary.

Compd

Order No 5621-22 & 23/10/00
L7-231-96

The refund bill for Rs 10-6-0 is sanctioned and forwarded to the Comptroller for audit.

2. The President is requested to intimate to the Comptr the source in the current year's Mil Budget from which the charge can be met.

(3) The President is further requested to allow free passage to all carts of the description under reference (viz three ~~belonging~~ Comptr. stores).

Sect
28/9/00

To
The Prov. of the Mil Bonnie
Bangalore City Lt. Mels.
& Comptr with bill.

* 1 Bill to Comptr
** Reply of papers to President
RL 641.

Subject to the Survey.

Sec 57 of the Bangalore Mil Regn says that no tolls shall be levied for the passage of military or other stores belonging to the British or Mysore Govt on their march

Yes.
~~30/10~~
2/10/00.

It is not known whether the practice of levying the tolls is now continued so as to necessitate frequent applics for such refunds.

Yes.

Sect
Dng 4/10/00

Read -

Letter no. 42 dated the 22nd Sept. 00 from the President of the Munl. Commission, Bangalore City, submitting for orders of Govt. a letter from the Chief Commissariat officer Bangalore no. A/1364 dated 28th 1900, together with its enclosures claiming a refd of Rs. 10-6-4 being the amount of tolls paid by contractors on their carts when conveying military stores since 1st January 1900.

Order

Ended Rs. 2 H/-.

The law on the subject is the same both in Madras and Bangalore. The Advocate General's opinion on which carts of the kind in question were exempt from tolls in Madras, supports the present claim -

11/10/00

11-10-00

15/10/1900
Kakanks Le